THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.23380 of 2007

Dated: 05.11.2007

Between:

Ch.Dasaradhi Prasad. .. Petitioner.

And

The District Collector and Executive Director, A.P.State Housing Corporation Limited, Ongole, Prakasam District and another. .. Respondents.

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.23380 of 2007

ORDER:

This writ petition is filed seeking a Mandamus declaring the proceedings in Rc.No.1751/A1/2007, dated 23.10.2007, issued by the 1st respondent as arbitrary, illegal and violative of rights guaranteed under Articles 14, 16 and 21 of the Constitution of India.

2. Under the impugned proceedings, the petitioner has been placed under suspension from service on the allegation of mis-utilisation of Corporation funds to a tune of Rs.2,31,050/- in construction of Housing Colonies for weaker sections in Kandukur Municipality. The grievance of petitioner is that the impugned proceeding was issued basing on the preliminary inspection report of the 2nd respondent, who is none other than the Deputy Executive Engineer appointed for the release of Government funds during 2004-05, which were alleged to be misutilised and which is the subject matter of the enquiry, and as such, the 2nd respondent is not the competent person to conduct any preliminary enquiry. Moreover, before conducting any enquiry, the disciplinary authority in the impugned proceedings has given a finding that the petitioner has willfully committed the mistakes and irregularities, which is arbitrary and illegal, and therefore, the suspension order is liable to be set-aside.

3. Heard both sides.

4. I am in agreement with the contentions put forth by the learned counsel for the petitioner that before commencement of an enquiry and its conclusion, the disciplinary authority cannot come to a conclusion that the petitioner has willfully committed the mistakes and irregularities, however, since an appeal lies against the impugned proceedings, no relief as sought for in this writ petition can be granted and the same is liable to be dismissed.

5. The writ petition is, accordingly, dismissed giving liberty to the petitioner to approach the appellate authority and file a statutory appeal and seek remedies as available under law.

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(C.V.RAMULU,J)

Dt.05.11.2007

v v